

foreign carrier which is or whose government is identified as contributing to the conditions described in § 587.2 of this part to any port or place in the United States or the navigable waters of the United States, or to detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States; and

(8) Any other action the Commission finds necessary and appropriate to address conditions unduly impairing access of a U.S.-flag vessel to trade between foreign ports.

(c) If the Commission finds that conditions impairing access of a U.S. flag vessel to ocean trade between foreign ports has not yet occurred, and punitive sanctions are warranted, such sanctions will be imposed to become effective simultaneously with the implementation of the action that would unduly impair the access of a U.S. flag vessel.

(d)(1) All decisions will be published in the FEDERAL REGISTER.

(2) Decisions imposing sanctions, except where conditions warrant and for good cause, will become effective 30 days after the date of publication.

(e) Any party may file a petition to reconsider any decision under this part. Such a petition shall be served on all other parties to the proceeding and shall not, in and of itself, stay the effective date of the Commission action.

[49 FR 45406, Nov. 15, 1984, as amended at 54 FR 11532, Mar. 21, 1989]

§ 587.8 Submission of decision to the President.

Concurrently with the submission of any decision imposing sanctions to the FEDERAL REGISTER pursuant to § 587.7(d)(1), the Commission shall transmit that decision to the President of the United States who may, within ten days after receiving the decision, disapprove it if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

§ 587.9 Postponement, discontinuance, or suspension of action.

(a) The Commission may, on its own motion or upon a petition, postpone, discontinue, or suspend any action

taken by it under the provisions of this part. Such a petition will be served on all other parties and will not, in and of itself, stay the effective date of Commission action.

(b) The Commission shall postpone, discontinue or suspend any action provided for in its final decision if so directed by the President for reasons of national defense or foreign policy of the United States as provided in § 587.8.

PART 588—ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S.-FLAG CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

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AUTHORITY: 5 U.S.C. 553; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a).

SOURCE: 54 FR 11533, Mar. 21, 1989, unless otherwise noted.

§ 588.1 Purpose.

It is the purpose of the regulations of this part to establish procedures to implement the Foreign Shipping Practices Act of 1988, which authorizes the Commission to take action against foreign carriers, whose practices or whose government's practices result in adverse conditions affecting the operations of United States carriers, which adverse conditions do not exist for those foreign carriers in the United States. The regulations of this part provide procedures for investigating such practices and for obtaining information relevant to the investigations, and also afford notice of the types of actions included among those that the Commission is authorized to take.

§ 588.2 Definitions.

For the purposes of this part:

(a) *Common carrier, marine terminal operator, non-vessel-operating common carrier, ocean common carrier, person, shipper, shippers' association, and United*

States have the meanings given each such term, respectively, in section 3 of the Shipping Act of 1984 (46 U.S.C. app. 1702);

(b) *Foreign carrier* means an ocean common carrier a majority of whose vessels are documented under the laws of a country other than the United States;

(c) *Maritime services* means port-to-port carrier of cargo by the vessels operated by ocean common carriers;

(d) *Maritime-related services* means intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf;

(e) *United States carrier* means an ocean common carrier which operates vessels documented under the laws of the United States;

(f) *United States oceanborne trade* means the carriage of cargo between the United States and a foreign country, whether direct or indirect, by an ocean common carrier;

(g) *Voyage* means an inbound or outbound movement between a foreign country and the United States by a vessel engaged in the United States oceanborne trade. Each inbound or outbound movement constitutes a separate voyage.

§ 588.3 Scope.

The Commission shall take such action under this part as it considers necessary and appropriate when it determines that any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country, result in conditions that adversely affect the operations of United States carriers in United States oceanborne trade, and do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

§ 588.4 Petitions.

(a) A petition for investigation to determine the existence of adverse conditions as described in § 588.3 may be submitted by any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States. Petitions for relief under this part shall be in writing, and filed in the form of an original and fifteen copies with the Secretary, Federal Maritime Commission, Washington, DC 20573.

(b) Petitions shall set forth the following:

(1) The name and address of the petitioner;

(2) The name and address of each party (foreign government, agency or instrumentality thereof, carrier, or other person) against whom the petition is made, a statement as to whether the party is a foreign government, agency or instrumentality thereof, and a brief statement describing the party's function, business or operation;

(3) The name and address of each United States carrier alleged to be adversely affected, and a description, and if possible, documentation, of why each is considered by petitioner to be a United States carrier;

(4) A precise description and, if applicable, citation of any law, rule, regulation, policy or practice of a foreign government or practice of a foreign carrier or other person causing the conditions complained of;

(5) A certified copy of any law, rule, regulation or other document involved and, if not in English, a certified English translation thereof;

(6) Any other evidence of the existence of such laws and practices, evidence of the alleged adverse effects on the operations of United States carriers in United States oceanborne trade, and evidence that foreign carriers of the country involved are not subjected to similar adverse conditions in the United States.

(7) With respect to the harm already caused, or which may reasonably be expected to be caused, the following information, if available to petitioner: